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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,920	10/01/2003	Lawrence R. Stotts	44224-0002US1 (188616)	8292

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11/17/2005

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/676,920	Applicant(s) STOTTS, LAWRENCE R.	
	Examiner Justin M. Larson	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18 is/are allowed.
- 6) ☒ Claim(s) 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/04 & 11/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS) submitted on 2/9/04 and 11/12/04 are noted. The submissions are in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statements.

35 USC § 112, 6th Paragraph

2. Claims 1 and 19 are written in "means plus function" form and since they meet the analysis set forth in MPEP 2181, the Examiner assumes that applicant wishes to invoke 35 USC § 112, paragraph 6.
3. Claim 2 attempts to use a "means" clause to recite a claim element as a means for performing a specified function, however, since this language does not meet the analysis set forth in MPEP 2181, i.e. "means for" or "step for" is not being used, or no function is set forth, or too much structure is set forth, the Examiner assumes that applicant does not wish to invoke 35 USC § 112, paragraph 6.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Fan (6,714,767). Fan discloses a clip for engaging a flange attached to a portable electronic device to enable the device to be attached to a desired object, the clip comprising: a housing (11&12) comprising a cradle (12) for receiving the flange; a back plate (14) having on a proximal side thereof means (15) for attaching the clip to an object; a latch comprising a detent (114) extending into the cradle (through 123), a wing (115) having a distal surface with a lifting slope, a release button (13), and a resiliently flexible tongue (111) biasing the detent into a position in which the detent extends into the cradle, and a displacement tine (131) extending downwardly from the release button, the displacement tine having a displacement ramp (132) on a proximal surface, the displacement ramp engaging the lifting slope (115) of the wing; wherein the displacement ramp interacts with the lifting slope to displace the latch proximally when the release button is pressed (col. 3 lines 29-32), and the resiliently flexible tongue urges the latch distally when the release button is not pressed (col. 3 lines 25-28).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fan in view of Mutai et al. (6,824,028) and Liang (5,850,996). Fan discloses the claimed

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invention but fails to specify the clip being made entirely of plastic, in fact, he does not mention any material structure at all.

Mutai et al. and Liang, however, both disclose related clips and teach that it is well known in the art for the components of such clips to be made of plastic (col. 2 line 35 & col. 1 line 52, respectively). Furthermore, it is well known that plastic is a cheap material, is easy to shape, and is very practical in applications requiring cheap, resilient materials. ~TN

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form some or all of the components of the clip of Fan out of plastic, as taught by Mutai et al. and Liang, in order to provide a resilient clip that was cheap and easy to manufacture.

Allowable Subject Matter

8. Claims 1-18 are allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note especially that Chen-Lieh discloses a similar clip with a resilient tongue (232) formed as part of the latch (230) rather than push button (240).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER